

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Comprehensive Review of)	WC Docket No. 05-195
Universal Service Fund)	
Management, Administration, and)	
Oversight)	
)	CC Docket No. 96-45
Federal-State Joint Board on)	
Universal Service)	
)	CC Docket No. 02-6
Schools and Libraries Universal)	
Service)	
Support Mechanism)	

**REPLY COMMENTS OF THE
COUNCIL OF THE GREAT CITY SCHOOLS**

The Council of the Great City Schools, the national coalition of 66 of the largest central-city school systems, requests the consideration of the following reply comments in response to the Commission's June 14, 2005 Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking regarding the management, administration, and oversight of the Universal Service Fund (WC Docket 05-195; CC Docket 96-45; CC Docket 02-6).

The Council of the Great City Schools has long supported the effort and goals of the Commission to improve and streamline the E-Rate program, reduce mistreatment of the program's support, and ensure the distribution of intended benefits to the neediest schools and libraries. The E-Rate program has no greater advocate than our city school systems, which enroll the highest number of disadvantaged children, employ the largest number of teachers, and occupy the greatest number of school buildings. Specifically, the 66 school districts in the Council represent approximately 7.5 million urban students, including 30% of the nation's minority students, 31% of the nation's

English Language Learners, and 28% of the nation's children eligible for free and reduced-price lunch. The value of universal service is immeasurable for these students and the inner-city, where the E-Rate can be used to bolster shallow resources and enhance the delivery of modern educational instruction.

INTRODUCTION

As stated in our original comments to the Notice of Proposed Rulemaking (NPRM) submitted in October, the Council appreciates the opportunity this Notice has provided for the E-Rate community to offer constructive and workable solutions. We also restate our appreciation for Chairman Martin's leadership and his outreach to E-Rate stakeholders, and are pleased that the Commission is taking a comprehensive look at changes to existing rules and protocols in an attempt to bring about improvements to this vital program.

We also would like to reiterate our support for the program's current Administrator, the Universal Service Administrative Company. For large applicants such as the big city school districts, the two most pivotal issues affecting the USF as it relates to the E-Rate are timing and communication. These issues are central to the operational difficulties that arise, and enhancements in these areas are necessary to ensure that improvements can take place. The Council and other entities submitted numerous comments in an effort to improve the timing and efficiency of the program, as well as the communications between applicants and decision-makers such as the Administrator and the Commission. Since our original filing in October, USAC has indeed taken steps to improve communications with large applicants, and we are optimistic that such progress will continue and will be beneficial to those involved and the program itself.

SIGNIFICANT STREAMLINING IN PRIORITY ONE REIMBURSEMENTS

The issue of timing, highlighted in the Council's original filing, appeared to be a significant source of frustration in the majority of comments. Almost all schools, libraries, and service providers emphasized in their comments that they have received enormous benefits from the program, but this broad group also could not ignore the lengthy delays, cumbersome applications, and unnecessary procedures which E-Rate participants continue to endure. An equally broad range of the program's stakeholders offered suggestions to help alleviate some of the more common issues, particularly in the area of Priority One.

EdLINC, representing local schools and libraries, and the Chief State School Officers, representing state education offices, both suggested that improvements in timing could be made with a simplified and earlier application process for Priority One services. This proposal aligns with the suggestion of our organization in our original comments, which also suggested that SLD aim to process all of Priority One requests by July 1st of every year. The Commission and USAC have found that Priority One services are not the area where questionable practices occur, yet lengthy delays in Priority One funding cause tremendous problems for applicants of all sizes. The Commission should consider an earlier window for Priority One services, and a staggered window for Priority Two requests, both in terms of when the applications are due and when commitments are delivered. In addition to the simplified Priority One procedures, there was widespread support for multi-year applications and approval with Priority One services. These types of changes are supported by the education community, and would help ensure that the essential basic services in Priority One for all applicants are processed efficiently and given preference.

An additional area which was not discussed widely in the comments, but which the Commission should continue to consider, is the shift of Maintenance and all recurring services to Priority One. As the Commission stated in the Notice, the delivery of technology services is a constantly evolving project, and the Council feels that supporting and prioritizing the Maintenance aspect of the program is vital to ensure that telecommunications infrastructure is sustained, and the long-term benefits of the E-Rate's investment are not ignored.

FORMULA DISTRIBUTION

The Council also points to the broad group of education representatives – urban and rural, state and local – that were resolute in their opposition to shifting the disbursement of E-Rate funds to a formula approach. The Arkansas E-Rate Work Group, for example, raises many of the same concerns on behalf of their mostly rural state that the California Department of Education, with dozens of urban locales, discussed. Both of these comments echoed the sentiments shared in our original filing in October, and warn that any formula approach would be unable to ensure fairness for all applicants, regardless of their location. These organizations, along with many others, remarked that a formula would spread money too widely and dilute funding for the poorest applicants that need reimbursements the most.

We also agree with a number of commenters, such as EdLINC, State E-Rate Coordinators Alliance (SECA), and the E-Rate Service Providers Forum (ESPF), who understand the attraction of a simple formula process, but believe that some

issues may not be resolved by such a shift in the program, and that another set of significant problems and challenges may arise. “In addition,” ESPF’s comments state, “a formula would not solve many of the practical, procedural issues that must be dealt with under the existing E-Rate program design,” including competitive bidding, cost-effectiveness, and technology planning, the specific areas that the Commission hoped would be fixed by a formula. SECA makes similar arguments with even starker warnings. “Further, a formula approach contains little if any safeguards to address concerns about waste, fraud and abuse. While in concept such an approach may be attractive, its implementation is fraught with complications and complexities, and the transition from the current system to a new system is likely to be more problematic than fixing the current system.”

The Council would also note that the majority of voices supporting a shift to a formula approach came from private sector representatives, and not from education organizations. Entities such as Qwest, SBC, and Cellular Telecommunications and Internet Association (CTIA) were pleased to support a formula approach, but did not provide any information about how such a significant program change could be implemented without causing a dilution of funds. These comments also did not address other issues which may result in a formula distribution, such as the elimination of the current priority for the neediest applicants, or the operational and oversight concerns which the E-Rate currently faces.

DISCOUNT MATRIX

Reducing the Discount Matrix

One area in which the Council voices adamant opposition, however, is the proposal to both lower the discount matrix from the current level of 90% and to allow a wider range of districts to be eligible for the program’s highest discount. Such a move would represent a major and unnecessary shift in the operations, focus, and intent of the program. Since the Commission did not make this suggestion in the current Notice, the Council reserved its original comments for the areas in which the FCC sought discussion. However, we will restate the positions offered in previous filings in order to respond to the renewed attack on our nation’s poorest schools and districts.

Adjusting the discount matrix and removing the priority for the nation’s absolute poorest schools, as proposed in past comments and again this year from the State E-Rate Coordinators Alliance (SECA), will clearly have a negative financial impact on these entities. The result will be an E-Rate program that no longer recognizes or addresses the additional challenges that applicants at the highest level of poverty face in providing a high-quality education. We understand the political pressure that states receive from

school districts and service agencies that have been unable to capitalize on the E-Rate's benefits. However, it is the state agencies' susceptibility to political pressure to spread money broadly that led Congress to increase targeting of scarce federal funds in the *No Child Left Behind* Act. As a result, programs for disadvantaged students (Title I), high quality teachers (Teacher Quality) and special education (Individuals with Disabilities Education Act, or IDEA) include factors that direct funds towards poverty at the local level in greater concentrations than ever before.

The willingness of state agencies to circumvent their responsibility to provide assistance to districts with need was also highlighted by the American Institutes for Research in a report on federal competitive grants, and is a major factor in the decision of Congress to target funding to high poverty areas at the local level. The regularity with which many states avoid targeting funding based on need, and surrender to the political pressure of non-poor districts, can also be reflected in the ongoing number of state education finance litigation cases around the country. At the same time that state agencies are trying to allow the E-Rate to serve districts that fall outside of the program's focus on poverty, they are also facing litigation and legislation that would force them to provide adequate education funding for the poorest schools and communities.

Requiring a "Modest" Tripling of Local Funds from the Poorest Applicants

Specifically, SECA's comments state that the "maximum discount for priority 2 funding requests should be set at 70% for all applicants with a NSLP [National School Lunch Program] percentage of 35% or greater" (page 53). What is not included with this proposal, however, is the number of applicants that would be included in their new top tier or the fact that the national average percentage for NSLP is approximately 35%. In the states' proposal, the nation's poorest schools and libraries would be subject to a "modest" tripling of their local costs with a new 30% match, and would be required to make the same financial commitment as any average school in the country. But schools with average levels of students eligible for free and reduced-price lunch can not and should not be classified as truly economically disadvantaged, and the request for equal status with poorer schools is an attempt to conceal the greater resources that these applicants, by definition, already possess.

Additional comments offered by the states include inaccurate rationales for blending discount levels, and further demonstrate a lack of sensitivity to issues of poverty. In one example, SECA suggests that differences in poverty may be due to the counting, or perhaps even manipulation, of student enrollment data. "Frequently, the only real difference between an applicant

with a 70% discount and an 80% discount is that the 80% discount applicant is more effective at counting the number of students eligible for NSLP” (page 49). While all funding thresholds require a cut-off point where minor differences in demographics result in differing levels of support, it is also true that an applicant in the 80% discount band may actually have double the percentage of poor students as an applicant in the 70% band. In another argument intended to dilute support to the poorest applicants, the submitted comments state that high poverty applicants can secure equipment with E-Rate dollars each year and then transfer their purchases to ineligible sites. Yet the comments make no mention of the well-known rule change made by the Commission to limit the transfer of equipment; a rule change which was supported and lauded by the Council.

Finally, we wholly reject the argument that school districts have little or no regard for examining specific need and cost-effectiveness, and that a ten percent local contribution is not steep enough, or is an insufficient amount of “skin in the game,” to force applicants to undertake such measures. We agree that school districts must carefully consider their technology expenditures, and when dealing with the nation’s poorest school districts, even the ten percent local cost required for E-Rate projects represents a significant expense. Due to the loss of state and local funds as a result of the economic downturn, as well as the loss of Congressional appropriations due to federal deficit reduction efforts, districts are facing large operational funding gaps and annual reductions to technology funding supports. Regardless of whether projects are pursued with E-Rate or other funds, urban schools districts work strenuously in pursuit of the best and most cost-effective technology solutions, and consistently push vendors for the best possible pricing models.

Reducing the discount from 90% to 70%, as suggested, and the ensuing tripling of costs, will be extremely difficult to absorb for some districts, and outright impossible for others. In Philadelphia, where 70% of the 270 total schools are eligible for the 90% discount, the increased local contribution will not be available anywhere else in the district, and the Technology division will have to find the additional funds in its existing technology budget. The Technology division is facing a 10% reduction next year, and if E-Rate projects require a greater match, the district will be required to cut an amount slated for other technology projects commensurate with the additional required match. This unnecessary and increased contribution is painful and would be difficult to attain for any enterprise; this is particularly true for the nation’s disadvantaged educational institutions.

High-Poverty Schools and Libraries Continue to Need the E-Rate

In Florida's Miami-Dade County Public Schools, the number of 90% schools in the district increased to 181 in Funding Year 2005, up from 158 buildings in 2004. Since the program's inception, there existed a number of 90% buildings in Miami that were unable to receive support for internal connections, as scarce resources made it difficult for them to raise the local 10% needed to complete E-Rate projects. Since mostly 90% schools were the only ones eligible to receive funding in the past, and the number of 90% schools continue to increase, more schools than ever before are in need of this support.

This situation is not uncommon in urban districts that have unusually high numbers of schools eligible for 90% discount, and which continue to see an influx of students in their school systems. Ninety-six of Boston's 140 school buildings are eligible for the 90% discount, while the Houston Independent School District has 224 schools, out of 299, located in the highest band. Any decrease in the discount offered to the poorest applicants may permanently put E-Rate reimbursements out of reach for these schools and the students the discounts were specifically intended to support.

Available Funds Resulting from Increased Burden on 90% Applicants

Urban districts with a more level distribution of discount bands understand the benefits of making additional funding available to the lower bands. However, since demanding a 20% or 30% matching investment from the poorest schools would not provide districts with a substantial increase for a newer discounted band, the negative impact any change produces demonstrates insufficient merit for legitimate consideration of such a reduction.

For example, when considering the demand on the E-Rate program for Funding Year 2005, Priority One services were estimated at approximately \$1.6 billion. With a \$2.25 billion annual cap, this demand would allow some \$625 million to remain to fund the requests for Internal Connections. Approximately \$740 million in 90% requests for internal connections were estimated by SLD (including Maintenance Services), with an additional \$930 million of internal connections requests from 80% discount applicants.

If an estimated half of the 90% applications were denied in 2005, the \$625 million remainder would be enough to meet all of the top band's internal connections requests. But requiring an additional 10% match from the districts at the 90% level would only produce an additional \$41 million for the 80% discount band – hardly significant compared to the 80% internal connections request of \$930 million. Increasing the non-discounted share to 30% for the poorest schools, as suggested in the states' comment, would still

not provide sufficient funds to address a significant portion of the applicants at the 80% level.

Creating Expanded Markets for Business While Increasing Costs for Schools

The Council also restates a caution it has voiced previously regarding lowering the discount matrix from its current level of 90%. While additional availability of some E-Rate funds for entities below the 90% discount band will result from an increased local match, this change would only come about if the nation's poorest schools are required to give more of their own funds, while at the same time expanding the profits and financial benefits that private companies derive from the program.

Under any reduction of the discount matrix, the amount of E-Rate reimbursements for 90% internal connections would remain the same – some \$681 million in 2004 – but the additional funds that the poorest schools, districts, and libraries will have to find to leverage that \$681 million will be increased, and will be delivered directly to private companies. A change in the discount matrix would demand that more money be taken away from those that need it the most, and transfer it to the profit margins of private sector companies.

The educational, financial, and operational harm to schools and libraries, and the ensuing financial benefits for companies, will be exaggerated the further the Commission moves from the 90% discount that has been in place since the program's inception. The table below shows an example of how the proposed change would transfer funds away from public sector applicants, while expanding the market for business and creating a windfall for private companies.

	90% Discount	70% Discount	Resulting Increase
Internal Connections Reimbursement	\$681,900,106	\$681,900,106	\$0
Applicant Contributions	\$75,766,678	\$292,242,903	\$216,476,224
Total Amount Paid to Private Sector	\$757,666,784	\$974,143,009	\$216,476,224

In Funding Year 2004, the SLD provided \$681 million in 90% discounts for Internal Connections. If that same amount of E-Rate money required a 30% contribution from the local level, over \$216 million in increased funding would shift from the accounts of those entities serving the nation's poorest communities into corporate coffers.

STATE FUNDING CAPS

Shifting Funds Among States

The Council would also like to voice its opposition to the suggestion of using a formula to determine state funding caps, as offered in the comments from the State of Florida. In this proposal, Florida outlined a premise for taking E-Rate funding and dividing equitably among the states, based on factors such as student or poverty enrollment. However, the E-Rate is not a state-based program, funding has never been divided in this manner, and was not intended to be. Funding Commitments are not aggregated or based on how many students a state has, or even how many poor students a state has. The E-Rate aims to provide direct support to the buildings (and the districts they are located in) that have the highest percentages of poor children, regardless of the geographic state boundary in which they are located. The E-Rate is skewed towards the poorest schools, and is not equitable towards all schools, because it is trying to balance out the inequities which already exist in communities across the nation.

We understand why a state such as Florida would prefer to cap the amount of funding that applicants in other states can receive. Florida enrolls large numbers of students, and large numbers of poor students. But the state has relatively low concentrations of poverty, and aside from the few areas where poverty is more prevalent, most of the schools do not have a high enough percentage of poor students to get 80% and 90% projects. This fact, that large numbers of schools in the state do not get Priority 2 money, is a likely factor which led to their suggestion. With no new money available for the program, the only way to fund those below the 80-90% threshold in Florida is to do what their comments suggested: cap – or more to the point, cut – funding in other states. Florida has a higher percentage of the student enrollment than their percentage of the poorest schools in the nation, so their share of the money would increase if the money went out based on state percentages of enrollment.

And while their proposal means that Florida would get more funding for those schools not in the higher tiers, other states would get less funding for their highest-poverty schools and districts. In the Florida proposal, the state would get enough funding to service all of their 80-90% schools which get funded usually, and would have additional money for lower poverty schools. But this additional funding would be subtracted from a number of other states that would receive less money, even though their number of higher poverty schools hasn't changed. In essence, this proposal helps some states, like Florida, at the expense of other states, and would have a detrimental impact on the highest poverty schools and districts located in the states that find themselves with less funding.

CONCLUSION

The Council of the Great City Schools shares the goals stated by the Commission in the original Notice, and believes that continued improvement in E-Rate operations is instrumental to the program's long-term success. Our comments and reply comments are offered to improve the program's efficiency and address issues of integrity, while also making sure the E-Rate maintains the fairness and flexibility that is necessary to manage the largest applications and projects in areas with the greatest concentrations of poor children. As the complexity and importance of technology continues to increase and evolve, the Council continues to offer its support and assistance to the Commission to ensure that the E-Rate remains available, reliable, and vital for the nation's schools.

Respectfully Submitted,

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